HONOURABLE SRI JUSTICE J.CHELAMESWAR
And
HONOURABLE SRI JUSTICE D.APPARAO

30-08-2006

WRIT PETITION NOs.17794, 17795 & 17798 of 2006

Between:

M/s. Praja Scale Centre, Hyderabd .. Petitioner

And

1. The Commercial Tax Officer and others.

..Respondents

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COMMON ORDER: (Per JC, J)**:**

These three writ petitions are interconnected, in the sense, the petitioner is the same in all three cases. The petitioner is a partner-ship firm, registered as a dealer on the rolls of the 1st respondent-Commercial Tax Officer, Hyderabad, carrying on business in the sale of weights and measures.

2. For the assessment years 2001-02, 2002-03 and 2003-04, the petitioner liability for tax under the A.P. General Sales Act came to be assessed by the 1st respondent. The petitioner was found liable to pay tax on the turnover of the year at the rate of 8% interest. However, the 2nd respondent-Deputy Commissioner (CT), Charminar

Division, Hyderabad, chose to revise the assessment order with reference to the above mentioned three years by exercising the power conferred on him under Section 20 (2) of the Act and came to the conclusion that the petitioner is liable to pay tax @ 12% on the turnover determined by the assessing authority. The revisionary authority is of the opinion that the merchandise of the petitioner is liable to be taxed under the residuary head of unclassified goods under the VII Schedule. Whereas the assessing authority was of the opinion that the menchandise of the petitioner was liable to pay tax under item 13-B of the VI Schedule of the Act.

3. The question before the Tribunal is that on a proper interpretation of the law, what is the relevant Schedule for fixing the tax liability of the petitioner.

4. It is brought to the notice of this Court that a clarification was issued by the Commissioner of Commercial Taxes in CCT's Ref.No.AI(1)/1529/2002, dated 14-06-2002. The relevant portion reads as follows:-

> "With reference to your letter cited, it is to clarify that weights and measures fall under item 13-B in the VI Schedule taxable @ 8% and weigh Bridges are taxable @ 12% under the VII Schedule to the APGST Act 1957."

5. It is the case of the petitioner that in view of such a clarification of issue in favour of another dealer who is marketing products, identical to the merchandise of the petitioner calculated the tax only at 8% treating the goods to be taxable under 13-B of the VI Schedule.

6. Aggrieved by the revisionary orders of the 2nd respondent, the petitioner carried three appeals before the A.P. Sales Tax Appellate Tribunal and during the pendency of the appeals, the petitioner sought stay of recovery of the disputed tax by three different applications made to the 3rd respondent-Additional Commissioner (CT) (Legal), Hyderabad. The 3rd respondent by his three different orders dated
04-08-2006, rejected the stay applications and hence, the present writ petitions.

7. Heard the learned Government Pleader for Commercial Taxes.

8. The fact that the petitioner paid tax at 8% on the turnover for each of the above mentioned years is not in dispute.

9. In the circumstances, more particularly, in view of the Circular issued by the Commissioner of Commercial Taxes (extracted above), we are of the opinion that these matters can be disposed of at the admission stage directing the respondents not to take any coercive steps for the recovery of the disputed tax with reference to each of the above mentioned assessment years i.e., 2001-02, 2002-03 and 2003-04 pending finalization of the appeal by the A.P. Sales Tax Appellate Tribunal, Hyderabd.

10. With the aforementioned direction, all these writ petitions are disposed of. No costs.

J.CHELAMESWAR, J

D.APPARAO, J

August 30, 2006.
Kvr